



**REQUEST FOR PROPOSALS FOR  
COMPREHENSIVE PARKS MASTER PLAN**

**RFP NO. 60149**

**RFP Issue Date:  
October 17, 2022**

**Proposal Submittal Due Date and Time:  
December 2, 2022 at 5:00 PM**

**Electronically to: [sperez@sanleandro.org](mailto:sperez@sanleandro.org)**

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION</b> .....	3
<b>II.</b>	<b>BACKGROUND</b> .....	3
<b>III.</b>	<b>PROJECT OVERVIEW AND OBJECTIVES</b> .....	4
<b>IV.</b>	<b>SCOPE OF SERVICES</b> .....	5
<b>V.</b>	<b>PROPOSAL REQUIREMENTS</b> .....	9
<b>VI.</b>	<b>SUBMITTAL REQUIREMENTS</b> .....	10
<b>VII.</b>	<b>ESTIMATED SCHEDULE</b> .....	11
<b>VIII.</b>	<b>EVALUATION OF PROPOSALS</b> .....	11
<b>IX.</b>	<b>DELIVERABLES REQUIRED OF SELECTED CONSULTANT</b> .....	12
<b>X.</b>	<b>CONDITIONS</b> .....	13

Attachment A – Consulting Services Agreement

Attachment B – Living Wage Guidelines and Frequently Asked Questions (FAQs)

Attachment C – Living Wage Self Verification Form

# **REQUEST FOR PROPOSALS FOR COMPREHENSIVE PARKS MASTER PLAN IN PARTNERSHIP WITH SAN LEANDRO UNIFIED SCHOOL DISTRICT AND SAN LORENZO UNIFIED SCHOOL DISTRICT**

## **I. INTRODUCTION**

The City and school districts of San Leandro (City and school districts) serve a diverse community of approximately 91,000 residents located in the East Bay of the San Francisco Bay Area, located between Oakland to the northwest and unincorporated Ashland to the southeast. The City and school districts are home to several active recreational parks as well as smaller, neighborhood parks.

The two school districts within the city, San Leandro Unified and San Lorenzo Unified, also have a vast set of recreational property assets and interests. Some are currently utilized by the city and school districts in partnership for broader community access and recreational programming.

The City and school districts are seeking a professional services team to provide the necessary planning services to conduct a Comprehensive Parks Assessment (Assessment) and to create a Parks Master Plan (The Plan). The Assessment shall include a Current State Analysis of the parks system's existing assets and Needs Assessment informed by community input. The City and school districts also desire to establish a comprehensive inventory of recreational assets owned by the school districts. The findings from the Assessment shall inform priorities and implementation strategies of the Plan. The goal of this project is to establish a shared, clearly defined vision for the City and school districts' parks system and other school-owned community assets (within the City of San Leandro) that is driven by community input. The Plan will provide guidance for both short- and long-range planning related to parks and recreation in the community and establish a baseline set of standards for all parks and recreational assets system-wide.

## **II. BACKGROUND**

In 1998, the City and school districts undertook a Parks Needs Assessment prepared by the, Community Services Department, to create a long range plan to guide the development, operation, and maintenance of the City's park and open space system. The City and school districts desire to better understand the current usage of our existing parks and recreational assets, the needs and desires of our community, and the allocation of funding needed to maintain existing assets, implement proposed park improvements, and improve utilization for recreational purposes system wide.

**III. PROJECT OVERVIEW AND OBJECTIVES**

The City and school districts want to approach the project in four (4) phases— 1) a Washington Manor Park site specific Master Plan; 2) assess what we have, including the general condition of the assets; 3) determine what the community wants and how to meet their needs; and then 4) based on those findings, create a Parks Master Plan to guide future investments. Consultants are also encouraged to present their own concepts to produce a comprehensive Plan.

**Phase 1 – Washington Manor Park Site Specific Master Plan**

- Provide an analysis of and update to the Washington Manor Park Condition Assessment and Washington Manor Park capital plans
- Review related planning efforts, community demographics, and assess current operations
- Conduct public outreach activities to collect community input from each of the City’s six Council districts
- Identify and analyze demographics and recreation trends
- Identify unmet current and future needs
- Identify staffing and ongoing maintenance funding needs and strategies for effective operations
- Identify funding and revenue sources for long-term financial sustainability
- Prepare final plan document that provides separate recommendation related to Washington Manor Park

**Phase 2 - Current Asset Assessment**

- Review and update the most recent Park/Facility Condition Assessment
- Provide an analysis based on the review of the Park/Facility Condition Assessment
- Review related planning efforts, community demographics, and assess current operations

**Phase 3 - Needs Assessment**

- Conduct public outreach activities to collect community input from each of the City’s six Council districts
- Identify unmet current and future needs in the parks system and school districts’ recreation-related properties
- Identify and analyze demographics and recreation trends
- Prioritize park improvements, development, and potential future park acquisitions
- Identify staffing and ongoing maintenance funding needs and strategies for effective operations
- Identify funding and revenue sources for long-term financial sustainability
- Identify potential recreation opportunities for the community on school districts’ recreation assets.
- Identify and recommend General Plan updates and/or City policies needed to carry out goals and objectives.

#### **Phase 4 - Parks Master Plan Development**

- Prepare final plan document that provides separate recommendations related to city parks and school district assets to be adopted by the City and school districts of San Leandro respectively
- Present final plan to the community

#### **IV. SCOPE OF SERVICES**

The specific work to be undertaken by the successful firm for the comprehensive parks master planning process is described below, and respondents should include in their proposals how they will assist the City and school districts with completing this work. The work described in this section is the minimum required to complete this process. In their submittals, firms should propose additions or edits to this scope that lend to the best process. Following the firm selection process, a meeting will be held with the successful firm to negotiate the final scope of work and a contract for services. Therefore, the City and school districts reserves the right to revise the final scope of work.

##### **Comprehensive Inventory Analysis**

The City and school districts shall provide the framework for a comprehensive inventory of the City and school districts' existing parks and recreation facilities that will include the following information:

- Parks and/or facilities location
- Park type (i.e., regional, neighborhood) and functionality (passive, sports fields, etc.)
- Acreage and ownership
- Inventory and general state of amenities

The consultant will confirm the inventory and conduct an existing conditions analysis to capture the following information:

- Capacity of facilities and/or amenities
- General conditions and/or life cycle
- Park-specific programming and/or usage

The consultant will also conduct the following functional assessments of the comprehensive inventory:

- Connectivity - Identify opportunities to improve pedestrian, bicycle, and vehicular connectivity between parks and other surrounding open spaces
- Proximity - Evaluate distribution of parks, amenities, and facilities within a ten-minute walking shed of residents
- Accessibility - Assess and rate accessibility of parks, amenities, and facilities for users with disabilities

### **Review of Related Policies, Plans, and Programs**

The Consultant shall review City and school districts' existing plans and policies that are relevant to the parks system and recreational offerings, as well as comprehensive long-range plans and related documents. This includes:

- Capital Improvement Plan
- General Plan
- Annual Budget & Financial Report
- Recent and future bonding plans for new facilities
- Bicycle and Pedestrian Master Plan
- Vision Zero/Local Roadway Safety Plan (under development)

Deliverables: Comprehensive Inventory of Existing Facilities Report  
Comprehensive Review of Policies, Plans, and Programs Report

### **Comparative Analysis**

For additional context, the Consultant shall perform a comparative analysis of the parks system with communities of a similar size and density and assess the City's organizational structure, programming and maintenance staffing, and funding levels in relation to national averages and comparative to cities of similar size regionally. Discuss different funding mechanism and cost recovery strategies.

Deliverables: Comparative Analysis and Recommendation Report

### **Public Outreach and Engagement**

The Consultant will take the lead on public involvement for the planning process to determine the current usage of the park system and school district recreational assets as well as the needs, desires, and interests of the community. The Consultant shall provide an outline of their public involvement strategy in their proposal that describes how the community and stakeholders will be provided opportunities to participate in the development of the Plan. The proposed public involvement strategy shall provide:

- Well-organized and directed activities, techniques, and formats for public participation
- Methodology for gathering feedback about services, uses, and preferences
- A city-wide community needs assessment survey (a statistically valid survey is preferred)
- Written records and findings for all public outreach and engagement activities

It's important that the public outreach process include communication in multiple languages, including Spanish and Chinese.

The City and school districts will work with the Consultant to implement the public involvement strategy by assisting with logistics and execution of all community meetings. Realizing potential Consultants may not be local and travel costs may increase price beyond the allocated budget, the consultant's attendance during public outreach events and presentations shall be prioritized over more perfunctory activities.

### **Gap Analysis/Needs Assessment**

The Consultant will conduct a gap analysis that examines the identified needs of the community and the capacity of existing parks to meet those needs. The subsequent findings shall inform recommendations and system-wide strategies for:

- Improving existing parks, facilities, and amenities
- Acquiring and/or developing new parks sites
- Potential programming and/or partnership opportunities that address community needs

The gap analysis shall also consider anticipated needs based on local population projections and forecasts, as well as emerging trends and best practices in comparable cities and nationally.

### **Preliminary Recommendations**

Based on the findings of the gap analysis, the Consultant will develop prioritized recommendations to meet identified needs. The Consultant will also develop corresponding estimates of the capital and operational cost for the recommendations. The analysis will also include funding and staffing requirements for future growth and operation in line with the priority recommendations. The consultant will facilitate a strategic planning session with City and school districts staff to:

- Present a list of critical issues and opportunities based on the results of the gap analysis
- Provide preliminary recommendations
- Confirm the City and school districts' strategic priorities to guide final plan development

### **Prepare Final Plan and Implementation Strategy**

The Plan shall include strategies, priorities, budget support, and funding mechanisms for the short term, mid-term, and long term, as developed during the needs assessment phase of the planning process. The City and school districts request the final plan include:

- Updated inventory of existing parks and a condition report for each park and their facilities
- Prioritized recommendations to meet current and future needs
- Phasing strategy to implement the prioritized recommendations
- Estimates of the capital replacement and operational costs of prioritized recommendations
- Evaluation of the feasibility, cost-effectiveness/return on investment of suggested strategies and recommendations
- A capital projects prioritization process for future strategic investments and reoccurring capital needs
- Recommendations for addressing operations, staffing, maintenance, technology, programming, services, and funding needs to support implementation of this Plan
- A budget and staffing analysis needed for current level of service, an adequate level of service, and a desirable level of service

The Plan should be in a reader-friendly document with an emphasis on maps, charts, photos, graphics and tables to convey information in addition to a descriptive narrative. The Plan should be formatted in such a way that it is easy to update on a routine basis.

### **Presentation of Parks Master Plan**

Once staff has reviewed and accepted the final plan, the Consultant will present the Parks Master Plan to the public and Council for adoption.

Deliverables:           Draft Parks Master Plan  
                                  Final Parks Master Plan

### **Additional Expectations**

The following project activities and collaborations are expected:

- Project Management Meetings
  - o Kick-off meeting with staff
  - o Bi-weekly project update meetings (may be virtual)
  
- Site Visits by Consultant
  - o Phase 1 - conditions assessment
  - o Phase 2 - public outreach activities
  - o Phase 3 - final presentation to public
  
- Benchmark Reporting & Presentations
  - o Consultant to provide reports/findings at the end of each Phase
  - o Consultant to provide updates to Recreation and Park Commission, City Council, and school districts at the end of each Phase
  - o Consultant to present final plan to the public

The City and school districts will provide the following project support:

- A City and school districts Project Manager to help oversee the development and progress of the final plan
- An Advisory Committee including representation from stakeholder groups, City and school districts decision makers, and City and school districts staff
- Access to all available plans, data, maps, forecasts, etc.
- Assistance with logistics and execution of all community meetings

### **Preliminary Project Schedule**

<b>October 2022</b>	<b>Project Kick-off Meeting</b>
<b>December 2022</b>	<b>Surveys</b>
<b>Spring 2023</b>	<b>Final Washington Manor Park Master Plan</b>
<b>Fall 2023</b>	<b>Final Plan Adopted by City Council</b>



## V. PROPOSAL REQUIREMENTS

Proposals shall include:

1. Scope of Services
  - a) A summary of the methodology to be used for the work specified in Section IV
  - b) A discussion of the methods of management, quality control, and coordination that will be used to accomplish the work schedule for the tasks delineated in Section IV
  - c) An estimate of the level of effort required (i. e. hours for each project component for each job title)
2. Qualifications, including education, experience, certifications of key personnel who will be assigned to the project from start to finish, including subconsultants. Expertise applicable to the work specified in Section IV should be emphasized. Include the quantity, function and availability of personnel to be assigned to perform the work specified in Section IV, including subconsultants.
3. Statement of past work performed on projects of a similar nature. Supply names of clients, client's contact person and current telephone number, type of projects, and description of consultant's activities. The City and school districts may contact the prospective consultant's previous clients for additional information.
4. If applicable, provide names of entities associated with the prospective consultant who may have a conflict of interest with any activity of this project. Provide details and reasons. Prospective consultants are subject to disqualification on the basis of conflict of interest as determined by the City and school districts.
5. A fee schedule for each job classification and subconsultant proposed.
6. A detailed statement explaining any provisions in Sections III, IV and/or V that the prospective consultant chooses not to address in the proposal.
7. Statement of Exceptions to the City and school districts standard Consulting Services Agreement, which is attached to the Request for Proposal as Attachment A. If no exceptions to the standard contract language are requested, a Statement of Exceptions should still be included as part of the proposal stating that no exceptions are needed.

### **Non-Collusion Affidavit**

The Consultant declares, by signing and submitting a proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Consultant has not directly or indirectly induced or solicited any other Consultant to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Consultant or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the Consultant has not in any manner, directly or indirectly, sought by agreement,

communication, or conference with anyone to fix the proposal price of the Consultant or any other Consultant, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other Consultant, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the Consultant has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

## **VI. SUBMITTAL REQUIREMENTS**

Consultants shall submit Items 1-7 as stated in *Section V. - **PROPOSAL REQUIREMENTS***. Consultant is required to indicate the *Designated Contact* in the proposal package. Include the designated contact individual's name, address, phone number(s) and email address.

Proposals are to be submitted electronically to Sally M. Perez, Purchasing Technician, at [sperez@sanleandro.org](mailto:sperez@sanleandro.org). The proposal shall be signed by an individual(s) authorized to execute legal documents on behalf of the Consultant. **The subject line of the email is to clearly state, RFP 60149 Comprehensive Master Parks Plan.** Proposals shall be **received** by the City of San Leandro Purchasing Office no later than **5:00 p.m. on Friday, December 2, 2022.**

***Because this proposal is negotiable, all pricing data will remain confidential until after award is made, and there will be no public opening and reading of proposals. Please submit the pricing as a separate pdf file.***

The email date/time stamp will be proof of receipt. Late proposals will not be considered under any circumstance.

Proposals shall be received by the City of San Leandro Purchasing Office no later than **5:00 p.m. on December 2, 2022.** Please note that internal mail delivery can take two or more workdays. This should be figured in if Consultant is mailing proposals in. Late proposals will not be considered under any circumstance.

Failure to provide all required submittals in completed form and/or a clearly marked original with original signatures may result in a proposal being found non-responsive and given no consideration. Proposals must be neat, complete, and fully address all information specified in **Section V.**

For information concerning RFP questions, procedures and regulations (i.e., submission deadline, forms required, etc.) interested parties must contact the City's Purchasing Agent. All questions shall be submitted via email.

**CITY OF SAN LEANDRO**  
Sally Perez  
Purchasing Technician  
Email: [sperez@sanleandro.org](mailto:sperez@sanleandro.org)

**VII. ESTIMATED SCHEDULE**

<b>RFP Issue Date</b>	October 17, 2022
<b>Deadline to Submit Questions for Q&amp;A</b>	November 17, 2022
<b>Proposal Submittal Due Date</b>	December 2, 2022
<b>Firm Oral Presentation/Interviews (Tentative)</b>	Week of December 12, 2022
<b>Selection and Notification (Tentative)</b>	December 20, 2022
<b>Award of Contract (Tentative)</b>	January 17, 2023

**VIII. EVALUATION OF PROPOSALS**

Proposals must fully address the evaluation factors, contain complete technical submittals, references and data to verify qualifications and experience and include a statement that the City and school districts contract can be executed, listing any exceptions. Proposals without sufficient submittal data to provide a complete evaluation will be considered non-responsive. As part of the technical proposal, Consultants must evaluate the City and school districts’ proposal terms and conditions. Any exceptions taken to the proposal specifications and/or the City and school districts’ Consulting Services Agreement must be listed as a separate item as *Exceptions to Specifications*.

All proposals will be reviewed for compliance with specifications including documented capability to perform the prescribed work in a satisfactory manner. Proposals, which appear to be compliant, will be evaluated on a point system (0-100 points, with 100 being the best possible score) in accordance with the following:

<b>CRITERIA</b>	<b>MAXIMUM POINTS</b>
1. <b>Capacity to Perform:</b> Respondents shall demonstrate the capacity to provide the services described in the RFQ and to respond to the public, the City and school districts, and other stakeholders in a timely manner. Defined expectations for timeliness of service delivery and stakeholder communication should be outlined with the submittal.	50 points
2. <b>Community Outreach Strategy:</b> All proposals will be evaluated with regard to community outreach. Respondents shall submit a detailed community outreach plan that accounts for stakeholder engagement ranging from community members, governmental/private organizations that are stakeholders in parks initiatives, elected officials, etc.	30 points
3. <b>Cost Structure:</b> The City and school districts is not required to accept the lowest bid for this RFP. However, as with any public procurement process, cost will be considered in the overall scoring of all proposals.	15 points
4. <b>Submission Quality:</b> Proposal shall be well-organized, professionally communicated, and meets all RFP specifications	5 points

The City and school districts reserve the unilateral right to amend this RFP in writing at any time. The City and school districts also reserve the right to cancel or reissue the RFP at its sole discretion. Additionally, the City and school districts may seek clarification or additional information from Consultants. All Consultants shall verify if any addendum for this project has been issued by the City and school districts and shall respond to the final written RFP and any exhibits, attachments and amendments. It is the Consultant's responsibility to ensure that all requirements of contract addendum are included in their submittal. This RFP does not commit the City and school districts of San Leandro to sign an agreement, award a contract, or to pay any costs incurred in the preparation of a response to this RFP. All documents, conversations, correspondence, etc. with the City and school districts are subject to the laws and regulations that govern the City and school districts. All Proposals submitted in response to this RFP become the property of the City and school districts and public records, and as such may be subject to public review.

The City and school districts reserve the right to reject any or all proposals and the right to waive minor irregularities in any proposals. Waiver of one irregularity does not constitute waiver of any other irregularities.

***Because this proposal is negotiable, all pricing data will remain confidential until after award is made, and there will be no public opening and reading of proposals.***

#### **IX. DELIVERABLES REQUIRED OF SELECTED CONSULTANT**

The selected Consultant(s) shall enter into a Consulting Services Agreement with the City and school districts of San Leandro and submit the following items ***within ten (10) days of notice of award:***

1. City and school districts of San Leandro business license; to be maintained throughout length of contract
2. Copy of Certificate(s) of Insurance and endorsements in compliance with the requirements of Section 4. of *Attachment A- Consulting Services Agreement* and naming the City and school districts of San Leandro as an additional insured.
3. Completed IRS W-9 tax form
4. Self-verification form which shows compliance with the City and school districts Living Wage Ordinance

## **X. CONDITIONS**

### **Permits and Codes**

The selected Consultant shall comply with all laws, codes, rules and regulations of the State, County, City and school districts, applicable to the work to be performed at the City and school districts' locations. The Consultant, who shall pay all lawful charges, shall obtain all permits lawfully required.

### **City of San Leandro Living Wage Ordinance**

The San Leandro Municipal Code Title 1, Chapter 6, San Leandro's Living Wage Ordinance (LWO), provides that Consultants who engage in a specified amount of business with the City and school districts (except where specifically exempted) under contracts which furnish services to or for the City and school districts during the City and school districts' fiscal year shall comply with all provisions of this ordinance. The LWO requires a City and school districts Consultant to provide City and school districts mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, the selected Consultant must submit a completed self-verification form. Please note that the LWO applies to those contracts where the Consultant has achieved a cumulative dollar contracting amount with the City and school districts. Therefore, even if the LWO is inapplicable to this contract, change orders to this contract or the entering into of subsequent contracts may make them subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Consultant's employees change (i.e., additional employees are hired) so that Consultant falls within the scope of the Ordinance.

### **Insurance Requirements**

Requirements are incorporated in Section 4 of **Attachment A, Consulting Services Agreement (CSA)**.

**Attachment A - DRAFT**

**CONSULTING SERVICES AGREEMENT BETWEEN  
THE CITY AND SCHOOL DISTRICTS OF SAN LEANDRO AND  
[NAME OF PROFESSIONAL CONSULTANT]  
FOR  
[NAME OF PROJECT]**

**[USE THIS AGREEMENT FOR CONSULTING AGREEMENTS WITH LICENSED ARCHITECTS,  
LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL LAND SURVEYORS,  
DESIGN FIRMS CONTAINING THESE DESIGN PROFESSIONALS, AND ALL OTHER LICENSED  
PROFESSIONALS]**

THIS AGREEMENT for consulting services is made by and between the City and school districts of San Leandro (“City and school districts”) and \_\_\_\_\_ (“Consultant”) (together sometimes referred to as the “Parties”) as of \_\_\_\_\_, 20\_\_ (the “Effective Date”).

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City and school districts the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on \_\_\_\_\_, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City and school districts’ right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City and school districts, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City and school districts of such desire of City and school districts, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Consultant’s obligations hereunder.
- 1.5 **Public Works Requirements.** Because the services described in Exhibit A include “work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work,” the services constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. As a result, Consultant is required to comply with the provisions of the California Labor Code applicable to public works, to the extent set forth in Exhibit D.

## Attachment A - DRAFT

- 1.6 City and school districts Living Wage Rates.** This contract may be covered by the City and school districts of San Leandro Living Wage Ordinance (LWO). Bidder's attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-certification form and comply with the LWO if covered.
- 1.7 Public Works Contractor Registration.** Consultant agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to California Labor Code section 1725.5. Consultant agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

**[NOTE TO STAFF: IF THE SERVICES ARE NOT WITHIN THE STATUTORY DEFINITION OF A PUBLIC WORKS PROJECT, THEN SUBSECTION 1.5 AND EXHIBIT D MAY BE DELETED AND SUBSECTION 1.6 BE RENUMBERED TO 1.5. CHECK WITH THE CITY AND SCHOOL DISTRICTS' ATTORNEY IF THERE IS A QUESTION ABOUT WHETHER THE SERVICES CONSTITUTE A PUBLIC WORKS PROJECT.]**

**Section 2. COMPENSATION.** City and school districts hereby agrees to pay Consultant a sum not to exceed \_\_\_\_\_, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit B, regarding the amount of compensation, the Agreement shall prevail. City and school districts shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City and school districts to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City and school districts in the manner specified herein. Except as specifically authorized by City and school districts in writing, Consultant shall not bill City and school districts for duplicate services performed by more than one person.

Consultant and City and school districts acknowledge and agree that compensation paid by City and school districts to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents,

## Attachment A - DRAFT

and subcontractors may be eligible. City and school districts therefore has no responsibility for such contributions beyond compensation required under this Agreement.

**[NOTE TO STAFF: THE FOLLOWING PROVISIONS OF THIS SECTION MAY BE ALTERED AS NECESSARY TO FIT THE CIRCUMSTANCES OF A PARTICULAR AGREEMENT.]**

- 2.1 Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:
- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
  - The beginning and ending dates of the billing period;
  - A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
  - At City and school districts' option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
  - The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
  - The Consultant's signature;
  - Consultant shall give separate notice to the City and school districts when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and City and school districts. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City and school districts, if applicable.

**[NOTE TO STAFF: THE 800-HOUR LIMIT HAS BEEN ADDED BECAUSE OF RECENT COURT DECISIONS THAT INDICATE THAT INDEPENDENT CONSULTANTS MAY BECOME ELIGIBLE FOR PERS AFTER 1000 HOURS OF WORK FOR A CITY AND SCHOOL DISTRICTS WITHIN A 12-MONTH PERIOD, ENTITLING THE CONSULTANT TO AN EMPLOYER CONTRIBUTION FROM THE CITY AND SCHOOL DISTRICTS.]**

- 2.2 Monthly Payment.** City and school districts shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable



**Attachment A - DRAFT**

costs incurred. City and school districts shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

- 2.3 Final Payment.** City and school districts shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City and school districts of a final invoice, if all services required have been satisfactorily performed.
- 2.4 Total Payment.** City and school districts shall pay for the services to be rendered by Consultant pursuant to this Agreement. City and school districts shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City and school districts shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.
- 2.5 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.
- 2.6 Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit B, and shall not exceed \$\_\_\_\_\_. Expenses not listed in Exhibit B are not chargeable to City and school districts. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 Payment upon Termination.** In the event that the City and school districts or Consultant terminates this Agreement pursuant to Section 8, the City and school districts shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

**[NOTE TO STAFF: SECTION 3 MAY BE MODIFIED AS NECESSARY FOR THE TYPE OF WORK.]**

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City and school districts shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

## Attachment A - DRAFT

City and school districts shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City and school districts employees and reviewing records and the information in possession of the City and school districts. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City and school districts. In no event shall City and school districts be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

**[NOTE TO STAFF: THE FOLLOWING PROVISIONS OF THIS SECTION MAY BE ALTERED AS NECESSARY TO FIT THE CIRCUMSTANCES OF A PARTICULAR AGREEMENT. PLEASE CONFIRM WITH RISK MANAGEMENT.]**

**Section 4. INSURANCE REQUIREMENTS.** Before fully executing this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City and school districts of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence to City and school districts that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

### 4.1 Workers' Compensation.

**4.1.1 General Requirements.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$\_\_\_\_\_ [dollar amount to be determined based on nature of the work—if no extenuating circumstances exist, \$1,000,000 is typically required] per accident. In the alternative, Consultant may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Consultant, its employees, agents, and subcontractors.

**Attachment A - DRAFT**

**4.1.2 Submittal Requirements.** To comply with Subsection 4.1, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

**4.2 Commercial General and Automobile Liability Insurance.**

**4.2.1 General Requirements.** Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$\_\_\_\_\_ and automobile liability insurance for the term of this Agreement in an amount not less than \$\_\_\_\_\_ **[dollar amounts to be determined based on nature of the work—if no extenuating circumstances exist, \$1,000,000 is typically required]** per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an “occurrence” basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City and school districts, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.
- c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss.

## Attachment A - DRAFT

Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation.

- d. For any claims related to this Agreement or the work hereunder, the Consultant's insurance coverage shall be primary insurance as respects the City and school districts, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City and school districts, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

**4.2.4 Submittal Requirements.** To comply with Subsection 4.2, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

### **4.3 Professional Liability Insurance.**

**4.3.1 General Requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$\_\_\_\_\_ [**dollar amount to be determined based on the nature of the work—if no extenuating circumstances exist, \$1,000,000 is typically required**] covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

**4.3.2 Claims-Made Limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.

## Attachment A - DRAFT

d. A copy of the claim reporting requirements must be submitted to the City and school districts for review prior to the commencement of any work under this Agreement.

**4.3.3 Additional Requirements.** A certified endorsement to include contractual liability shall be included in the policy.

**4.3.4 Submittal Requirements.** To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

**4.4.2 Verification of Coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City and school districts with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City and school districts does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City and school districts reserves the right to require complete copies of all required insurance policies at any time.

**4.4.3 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of City and school districts for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City and school districts, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City and school districts, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City and school districts guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**4.4.4 Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

**4.4.5 Endorsement Requirements.** Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City and school districts.

**4.4.6 Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each

## Attachment A - DRAFT

subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

**4.5 Submittal of Proof of Insurance Coverage.** All certificates of insurance and original endorsements effecting coverage required in this Section 4 must be electronically submitted through the City and school districts' online insurance document management program, PINS Advantage. Contractor shall comply with all requirements provided by City and school districts related to the PINS Advantage program.

**4.6 Remedies.** In addition to any other remedies City and school districts may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City and school districts may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City and school districts may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

**Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.** Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

**Section 6. STATUS OF CONSULTANT.**

**6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City and school districts. City and school districts shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City and school districts shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City and school districts, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City and school districts, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and school districts and entitlement to any contribution to be paid by City and school districts for employer contributions and/or employee contributions for PERS benefits.

## Attachment A - DRAFT

- 6.2 **Consultant Not an Agent.** Except as City and school districts may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City and school districts in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City and school districts to any obligation whatsoever.

### **Section 7. LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City and school districts is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City and school districts that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City and school districts that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City and school districts.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

**Attachment A - DRAFT**

**Section 8. TERMINATION AND MODIFICATION.**

**8.1 Termination.** City and school districts may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon \_\_\_\_\_ days' written notice to City and school districts and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City and school districts, however, may condition payment of such compensation upon Consultant delivering to City and school districts any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City and school districts in connection with this Agreement.

**8.2 Extension.** City and school districts may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City and school districts grants such an extension, City and school districts shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City and school districts shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

**8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

**8.4 Assignment and Subcontracting.** City and school districts and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City and school districts for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

**8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and school districts and Consultant shall survive the termination of this Agreement.

**8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City and school districts' remedies shall include, but are not limited to, the following:



**Attachment A - DRAFT**

- 8.6.1 Immediately terminate the Agreement;
- 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
- 8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City and school districts would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City and school districts. Consultant hereby agrees to deliver those documents to the City and school districts upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and school districts and are not necessarily suitable for any future or other use. City and school districts and Consultant agree that, until final approval by City and school districts, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City and school districts under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City and school districts. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City and school districts or as part of any audit of the City and school districts, for a period of 3 years after final payment under the Agreement.

**Section 10. MISCELLANEOUS PROVISIONS.**

## Attachment A - DRAFT

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City and school districts or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City and school districts official in the work performed pursuant to this Agreement. No officer or employee of City and school districts shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City and school districts. If Consultant was an employee, agent, appointee, or official of the City and school districts in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City and school districts for any sums paid to the Consultant. Consultant

**Attachment A - DRAFT**

understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

At City and school districts' sole discretion, Consultant may be required to file with the City and school districts a Form 700 to identify and document Consultant's economic interests, as defined and regulated by the California Fair Political Practices Commission. If Consultant is required to file a Form 700, Consultant is hereby advised to contact the San Leandro City and school districts Clerk for the Form 700 and directions on how to prepare it.

**10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

**10.9 Contract Administration.** This Agreement shall be administered by \_\_\_\_\_ ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

**10.10 Notices.** Any written notice to Consultant shall be sent to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**[EMAIL ADDRESS MUST BE INCLUDED]**\_\_\_\_\_

**Attachment A - DRAFT**

Any written notice to City and school districts shall be sent to:

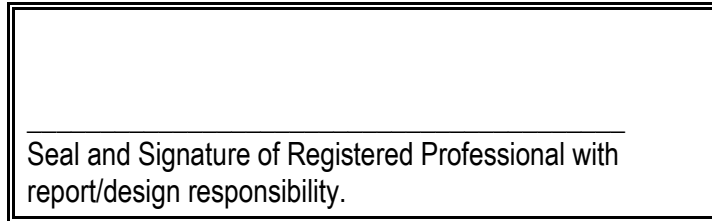
---

---

---

With a copy to:  
City and school districts of San Leandro  
Department of Finance  
c/o Purchasing Agent  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

- 10.11 Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



**Attachment A - DRAFT**

**10.12 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, and C [and D] **[ENSURE THAT THE CORRECT EXHIBITS ARE LISTED]** represents the entire and integrated agreement between City and school districts and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule & Reimbursable Expenses
<u>Exhibit C</u>	Indemnification <b>[NOTE TO STAFF: USE VERSION 1 OR 2]</b>
<u>Exhibit D</u>	California Labor Code Section 1720 Information <b>[DELETE IF NOT APPLICABLE]</b>

**10.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

**10.14 Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

**SIGNATURES ON FOLLOWING PAGE**

**Attachment A - DRAFT**

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY AND SCHOOL DISTRICTS OF SAN LEANDRO

[NAME OF CONSULTANT]

\_\_\_\_\_  
Francis Robustelli, City Manager

\_\_\_\_\_  
[NAME, TITLE]

Attest:

\_\_\_\_\_  
Consultant's DIR Registration Number  
(if applicable)

\_\_\_\_\_  
Kelly B. Clancy, City Clerk

Approved as to Fiscal Authority:

\_\_\_\_\_  
Michael Yuen, Finance Director

\_\_\_\_\_  
Account Number

Approved as to Form:

\_\_\_\_\_  
Richard D. Pio Roda, City Attorney

Per Section 10.7:

- Form 700 Not Required
- Form 700 Required

\_\_\_\_\_  
Scott Koll, Acting Recreation Department Head

**Attachment A - DRAFT**

**EXHIBIT A**

**SCOPE OF SERVICES**

**Attachment A - DRAFT**

**EXHIBIT B**

**COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES**



## Attachment A - DRAFT

### EXHIBIT C

#### INDEMNIFICATION

**[NOTE TO STAFF: INDEMNIFICATION EXHIBIT VERSION 1, PROFESSIONAL USE THIS VERSION FOR ALL CONTRACTS WITH LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS ONLY. IF THIS VERSION 1 IS USED, DELETE VERSION 2 ON THE NEXT PAGE.]**

- A. Consultant shall, to the extent permitted by law, including without limitation California Civil Code 2782 and 2782.8, indemnify, hold harmless and assume the defense of, in any actions at law or in equity, the City and school districts, its employees, agents, volunteers, and elective and appointive boards, from all claims, losses, and damages, including property damage, personal injury, death, and liability of every kind, nature and description, arising out of, pertaining to or related to the negligence, recklessness or willful misconduct of Consultant or any person directly or indirectly employed by, or acting as agent for, Consultant, during and after completion of Consultant's work under this Agreement.
- B. With respect to those claims arising from a professional error or omission, Consultant shall defend, indemnify and hold harmless the City and school districts (including its elected officials, officers, employees, and volunteers) from all claims, losses, and damages arising from the professionally negligent acts, errors or omissions of Consultant, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.
- C. Consultant's obligation under this section does not extend to that portion of a claim caused in whole or in part by the sole negligence or willful misconduct of the City and school districts.
- D. Consultant shall also indemnify, defend and hold harmless the City and school districts from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the City and school districts or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Consultant's services under this Agreement, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.

## Attachment A - DRAFT

### EXHIBIT C

#### INDEMNIFICATION

**[NOTE TO STAFF: INDEMNIFICATION EXHIBIT VERSION 2, TECHNICAL CONSULTANT USE THIS LANGUAGE FOR ALL OTHER TECHNICAL AND LICENSED CONSULTANTS THAT ARE NOT LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS. IF THIS VERSION 2 IS USED, DELETE VERSION 1 ON THE PREVIOUS PAGE.]**

Consultant shall indemnify, defend with counsel acceptable to City and school districts, and hold harmless City and school districts and its officers, elected officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Consultant's performance of the services called for or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City and school districts.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

The Consultant's obligation to defend and indemnify shall not be excused because of the Consultant's inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days to the tender of any claim for defense and indemnity by the City and school districts. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City and school districts, may be retained by the City and school districts until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.

## EXHIBIT D

### PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 ET SEQ.

#### HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to 8 hours during any one calendar day, and 40 hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of 8 hours during any one calendar day and 40 hours during any one calendar week is permitted upon compensation for all hours worked in excess of 8 hours during any one calendar day and 40 hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Consultant and its subcontractors shall forfeit as a penalty to the City and school districts \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

#### WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City and school districts has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City and school districts Public Works Office and shall be made available on request. The Consultant and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services described in Exhibit A.
- B. In accordance with California Labor Code Section 1775, the Consultant and any subcontractors engaged in performance of the services described in Exhibit A shall comply with California Labor Code Section 1775, which establishes a penalty for each worker engaged in the performance of the services described in Exhibit A that the Consultant or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Consultant or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Consultant or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Consultant or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Consultant or subcontractor had knowledge of their obligations under the California Labor Code. The Consultant or subcontractor shall pay the difference between the prevailing wage rates and the

amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Consultant is not liable for any penalties therefore unless the Consultant had knowledge of that failure or unless the Consultant fails to comply with all of the following requirements:

1. The contract executed between the Consultant and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
  2. The Consultant shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
  3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Consultant shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
  4. Prior to making final payment to the subcontractor, the Consultant shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Consultant and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
  2. The employer has complied with the requirements of California Labor Code Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be submitted directly to the Labor Commission, and available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Consultant, on behalf of the Consultant and any subcontractors engaged in performance of the services described in Exhibit A,

shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.

- E. In case it becomes necessary for the Consultant or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Consultant or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

3008145.1

## **Attachment B**

### **CITY OF SAN LEANDRO LIVING WAGE ORDINANCE (LWO)**

---

## **Guidelines for Compliance & Frequently Asked Questions July 2022**

### **Guidelines for Compliance with the Living Wage Ordinance (LWO)**

#### **Service Providers**

##### For Profit Service Providers

Affects for-profit entities that provide services to the City valued at \$25,000 or greater within the City's fiscal year; and which has six (6) or more employees.

Any employee working on City services under contract with the City is covered by the LWO for the time spent performing said services.

##### Non-Profit Service Providers

Affects non-profit entities that provide services to the City valued at \$100,000 or more within the City's fiscal year; and which has six (6) or more employees

Any employee working more than 25% of their time on the City-contracted services being procured by the City under the contract with the employer is subject to.

#### **Lessees**

Affects lessee's of public property, licensees, concessionaires and franchises that generate \$350,000 or more in annual (calendar) gross receipts.

Any employee who spends more than 25% of their working time on the leased property or engaged in work directly related to the license, concession or franchise is subject to.

#### **Financial Aid Recipients**

Affects any entity receiving more than \$100,000 in City grants, loans, or other cash/non-cash assistance within the City's fiscal year. Compliance is required for the duration of one year for each \$100,000 of assistance, pro-rated up to a maximum duration of five (5) years after receiving said aid.

Any employees who spend more than 25% of their working time engaged in work directly related to the purposes for which the City's aid was provided are subject to.

**Subcontractors/Sub-Lessees**

Affects both for-profit and non-profit employers that enter into a subcontract with the primary employer/contractor and assumes some of the obligations of the primary employer/contractor.

Subcontractor's and sub-lessee's are also subject to the same living wage provisions and requirements as the primary employer or lessee. Employees who are or would be covered under the state prevailing wage rate requirement would only be covered by the Ordinance if their current prevailing wage rate was lower than the living wage rate.

**Compensation**

Covered businesses are required to pay no less than \$18.54 per hour or \$17.04 with health benefits valued at least \$1.50 per hour, subject to annual CPI adjustment.

**Reporting and Compliance**

Covered businesses self-verify compliance and are subject to periodic re-verification and audit of living wage related records.

## **Frequently Asked Questions**

### **1. What is the City of San Leandro's Living Wage Ordinance?**

"Living wage" is an hourly wage level that sets wages at a level higher than the Federal or State minimum wage. The City of San Leandro Ordinance specifies that an hourly wage and a health benefit dollar level be applied to certain contracts, agreements and leases between the City and for-profit and non-profit entities. It does not apply to every business in the City.

### **2. When does the Living Wage take effect and when do businesses have to start complying and provide higher wages to their employees?**

September 1, 2007 is the effective date. Applicable businesses must comply with the Ordinance when they enter into a lease, contract or concessionaire or other agreement with the City of San Leandro, or when an existing agreement is amended to benefit the business.

For example, if a lease contract expires in two years, compliance would not be required for the two years the lease remains in effect and unchanged. New contracts entered into or amended thereto affecting financial aid or expending the term after the effective date are subject to the Ordinance. Covered employees would be entitled to the higher wage on the effective date of the new or modified contract or agreement.

All contracts and agreements with the City of San Leandro will include the requirement that the Living Wage Ordinance shall be complied with.

### **3. What is the required Living Wage rate?**

Covered businesses are required to pay no less than \$18.54 per hour, which includes wages and employer health benefits. Health benefits must be valued at \$1.50 per hour in order to be counted towards the requirement. In other words, an employee not receiving any employer health benefits would receive an hourly wage of at least \$18.54, while one receiving health benefits would receive an hourly wage of at least \$17.04.

The living wage rate will be adjusted annually in July to reflect the consumer price index.

### **4. Are there any other required employee benefits specified?**

Yes. It specifies that employees must receive at least 22 days off per year (calendar) for sick leave, vacation, holiday, or personal necessity. At least 12 of the required days off shall be compensated at the same rate as regular compensation while 10 of the required 22 days may be uncompensated days off. Part-time employees shall be entitled to accrue compensated days off in increments proportional to that accrued by full-time employees.

Employees shall be eligible to use accrued days off after the first 6 months of satisfactory employment or in accordance with the employer's policy, whichever is sooner.

### **5. What types of employee's are covered by the Ordinance? And does it cover full-time and part-time employees?**



Employees spending at least 25% of their work time on a City of San Leandro contract are covered, as long as they work for a business applicable under the terms of a covered agreement or contract. Both part-time and full-time employees are covered if they meet those criteria. Employees who are or would be covered under the state prevailing wage rate requirement would only be covered by the Ordinance if their current prevailing wage rate was lower than the living wage rate.

Please see “Guidelines for Compliance” for additional detail.

#### **6. What types of businesses are covered by the San Leandro Living Wage Ordinance?**

The Living Wage Ordinance applies to entities providing services to the City of San Leandro via contract or agreement, lessees of the City and recipients of City financial aid. Please see “Guidelines for Compliance” for the thresholds and criteria for each type of employer, lessee, financial aid recipient, or subcontractor and lessee.

#### **7. Does the Living Wage Ordinance apply to sub-contractors or sub-lessees?**

Subcontractor’s and sub-lessee’s are also subject to the same living wage provisions and requirements as the primary employer or lessee. Employees who are or would be covered under the state prevailing wage rate requirement would only be covered by the Ordinance if their current prevailing wage rate was lower than the living wage rate. For example, employees of a firm hired to do building improvements for the contractor would be subject to the prevailing wage requirements under state law.

#### **8. Does the Living Wage Rate affect tenants of a financial aid recipient?**

It depends on the circumstances, for example, if a developer receives a \$500,000 city loan to rehab a commercial building and the tenants pay the market rate, they would not be subject to the LWO. However, the benefitting developer or business (and successors) would be subject to the LWO.

#### **9. What types of employees are exempt?**

The Ordinance shall not be applicable to employees under 18 years of age, volunteers, qualified temporary employees working for the City of San Leandro, other government employees, employees that participate in a job training program, qualified disabled employees covered by a sub-minimum wage certificate or equivalent, interns or employees receiving academic credit through a job training program, employees already subject to the State’s prevailing wage requirement (if living wage rate is higher than the prevailing wage rate, then the living wage rate would apply) , employees while working stand-by or on-call duty, and any other employee where the application of the Ordinance would be prohibited by State or Federal law.

#### **10. Are any exemptions or waivers allowed for a business?**

Following City Manager review and recommendation, the City Council may approve waivers with or without conditions to any of the Living Wage provisions, upon determination that such action is in the best interest of the City.

**11. What other types of businesses are not covered by the City of San Leandro Living Wage Ordinance?**

Commodity suppliers and suppliers of goods (paper, office supplies, equipment, etc.) and their employees are not covered.

**12. What steps are in place to prevent discrimination or employer retaliation against the provisions of the Ordinance?**

Retaliation and discrimination against any person on account of having inquired into or having claimed a violation of the Ordinance is unlawful. Any employee who alleges violation of any of the Living Wage requirements may report such acts to the City. The City may investigate such complaints and take appropriate action to enforce the Ordinance.

**13. How do the worker retention provisions of the Ordinance work?**

Briefly, any business that replaces another business in a lease, contract, subcontract, etc. is required to offer employment to the employees of the prior tenant or contractor for a period of 90 days. If the new business already has its own employees, then employment must be offered on the basis of seniority to its own and the prior employees. Managerial, supervisory, professional, paraprofessional, and confidential and office employees are exempted from this provision.

**14. How is the Living Wage Ordinance enforced? Are there penalties against businesses found not to be complying?**

Employers self-verify compliance. The City may also periodically require employer re-verification and review the businesses living wage related records. Each business is required to allow access to its workforce and living wage related records by authorized City of San Leandro representatives to ensure compliance.

Violations of the Living Wage Ordinance are subject to fines of up to \$5,000, and/or the City may terminate the violator's agreement. Any person may bring action against a business in the Superior Court of California to enforce the measure.

**15. Who can answer more questions about the Ordinance; and where can I get a copy of it?**

The Finance Department of the City currently administers the Living Wage Ordinance. Please contact the department at 510-577-3472 if you have any questions. You may obtain a copy of the Ordinance from the Finance Department; or it is available on the City's website at:

<https://www.sanleandro.org/1015/Living-Wage-Ordinance>

## Attachment C

### CITY OF SAN LEANDRO

#### Living Wage Ordinance Self Verification Form for Providers of Personal Services

TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR SERVICES WITH THE CITY OF SAN LEANDRO.

The San Leandro Municipal Code Title 1, Chapter 6, San Leandro's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City during the City's fiscal year shall comply with all provisions of this ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, change orders to this contract or the entering into of subsequent contracts may make them subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees change (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

#### **SECTION I**

##### 1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS

a. During the period of July 1 -June 30 of the current city fiscal year, have you entered into contracts, including the present contract, bid, or proposal, with the City of San Leandro for a cumulative amount of \$25,000.00 or more?

YES \_\_\_\_ NO \_\_\_\_

If no, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 1(b).

b. Do you have six (6) or more employees?

YES \_\_\_\_ NO \_\_\_\_

If you have answered, "YES" to questions 1(a) and 1(b) this contract IS subject to the LWO. If you responded "NO" to 1(b) this contract IS NOT subject to the LWO. Please continue to Section II.

##### 2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.

a. During the period of July 1 -June 30 of the current city fiscal year, have you entered into contracts, including the present contract, bid, or proposal, with the City of San Leandro for a cumulative amount of \$100,000.00 or more?

YES \_\_\_\_ NO \_\_\_\_

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees?

YES \_\_\_\_ NO \_\_\_\_

If you have answered, "YES" to questions 2(a) and 2(b) this contract IS subject to the LWO. If you responded "NO" to 2(b) this contract IS NOT subject to the LWO. Please continue to Section II on the following page.

**SECTION II**

Please read, complete, and sign the following:

THIS CONTRACT **IS** SUBJECT TO THE LIVING WAGE ORDINANCE. ..

THIS CONTRACT **IS NOT** SUBJECT TO THE LIVING WAGE ORDINANCE. ..

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of San Leandro's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the San Leandro Municipal Code, Title 1, Chapter 6.

If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this verification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and pursue any other legal remedies available to the city, including debarment. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more of their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Business Entity: \_\_\_\_\_

Contract Description/Specification No: \_\_\_\_\_

**SECTION III**

..

\* \* FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY \* \* \*

I have reviewed this Living Wage Ordinance Self Verification form, in addition to verifying Contractor's total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract IS / IS NOT (circle one) subject to San Leandro's Living Wage Ordinance.

Department Name \_\_\_\_\_ Department Representative \_\_\_\_\_